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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,231	09/12/2001	Claude Dreulic Maurice	EDV/MAE BET 01/0599	2580
466	7590	07/12/2005	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			WALKER, KEITH D	
		ART UNIT		PAPER NUMBER
		1745		

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/936,231	MAURICE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Keith Walker	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 June 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-16, 18, 19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-16, 18, 19, 21 and 22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The finality of the last Office Action has been withdrawn due to the application of new art as discussed below.
2. Claims 17 & 20 have been cancelled and claims 21 & 22 have been entered into the record.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not enable the support of the battery characterized such that the base of a module supports one face of the battery and the second module base supports the opposite face.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 18 & 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'base' is used in each of the claims in different manners. In instant application, the term 'base' is used to describe the flat

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section pointed to by (26) in figure 2. It is unclear if the claims are using the term as defined by the specification or as defined by the generally held meaning of base, such as the bottom or foundation of an object.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,916,161 (Schaefer).

Regarding claims 9-10 & 16, Schaefer describes a stackable unit comprising a plurality of boxes having two sidewalls extending parallel. The pair of horizontally opposed wall elements forms a floor support (Fig. 1). Each box has at least one folded edge for each wall forming a support (Fig. 1).

Regarding claim 11, the floor of each box constitutes a battery retention means (Fig. 1).

Regarding claim 12, the removable posts extending through the folded edges also act as a retention means (2:33-37, Fig. 1).

Regarding claim 13, each of the end plates has a pair of fixing lugs (Fig. 1).

Regarding claims 14 & 15, the assembly has openings at the top of each bin and the lip of each bin provides a handling point (Fig. 1).

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7. Claims 9-12 & 16 are rejected under 35 U.S.C. 102(a) as being anticipated by US Patent 5,981,101 (Stone).

Regarding claims 9-11 & 16, Stone teaches a stacked battery storage box having a sidewalls extending parallel, where the horizontally opposed walls form a floor. Each wall element has a folded edge that defines a support (Fig. 1).

Regarding claim 12, a removable rod extending through the folded edges of the wall elements acts as a retention means (Fig. 2).

8. Claims 18 & 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,143,215 (Hartley).

Regarding claim 18 & 22, Hartley teaches a box for housing batteries. The box has at least two side walls mounted opposite each other with a plurality of batteries is housed in between (Fig. 1). Each of the batteries is supported on the base of each of the sidewalls (Fig. 1). The box can be stacked to form an assembly of stacked modules (Fig. 5).

Regarding claims 21, each of the wall elements has a folded edge, as indicated by reference number 13 in figure 1, to define the support for the battery (Fig. 1).

9. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,140,744 (Miller).

Miller teaches a storage box for multiple batteries. The box has a plurality of wall elements stacked in opposing columns (Fig. 1). The columns have end plates to cover the batteries (Fig. 6, 7:20-31). Each wall element has a horizontal upper and lower edge and has a vertical section between the edges (Fig. 1). The batteries are

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supported on one edge by an element of the first column and on a parallel second edge by an element of the second column (Fig. 1).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone in view of Miller.

The teachings of Stone and Miller, as discussed above, are incorporated herein.

Stone doesn't speak directly to the use of end plates with fixing lugs.

Miller teaches using covers over the faces of the batteries (Fig. 6, 7:20-31).

The motivation to use the covers is to provide a cooling duct and to enhance to visual appearance of the case.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the battery case of Stone with the covers of Miller is to make for a cooler running battery stack with a better visual appearance.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith Walker whose telephone number is 571-272-3458. The examiner can normally be reached on Mon. - Fri. 8am - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kdw



PATRICK JOSEPH RYAN  
SUPERVISORY PATENT EXAMINER